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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,311	03/04/2002	Teruo Masaki	7217/66562	5487
530 7590 08/29/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER SHIFERAW, ELENI A	
			ART UNIT 2136	PAPER NUMBER
			MAIL DATE 08/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/090,311

Applicant(s)

MASAKI ET AL.

Examiner

Eleni A. Shiferaw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 7-9, 13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 7-9, 13, and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/25/2007 has been entered.

Response to Amendment

2. Applicant's arguments with respect to amended claims 1-2, 4, 7-9, 13, and 15-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4, 7-9, 13, 15, 17, 19, and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Schneck et al. (herein after Schneck) US PG PUBS 2001/0021926 A1. in view of Moskowitz Pub. No. 2001/0010078 A1.

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Regarding claims 1, 8, 9, and 13 Schneck discloses a copyright licensing process promoting apparatus/method/program/medium for promoting a copyright licensing process for literary work data desired to be transmitted from a first terminal unit of a first user to a second terminal unit of a second user via a communication network (0042-0070), said apparatus comprising:

detecting means for accessing the first terminal unit of the first user by way of the communication network and for detecting at the first terminal unit a file of the literary work data to be transmitted from the first terminal unit to the communication network, said detecting means being operable to detect the file at the first terminal unit before the file is transmitted to the communication network (0136, 0286, 0295, 0323, 0043, 0134, 0046, 0251-0254, 0161-0168, 0295, and claim 4; *detecting access rights before allowing secondary distribution of data/redistribution*);

content determining means for determining whether a content of the file to be transmitted to the communication network and detected by said detecting means is valid (claims 2, 67, 45-46, and 0178; *determining access right rules is data transmission requested valid or not? ...*);

file processing means for performing a predetermined process for the file before the file is transmitted to the communication network when a result of said content determining means is not valid; and

said apparatus being connectable to the communication network at a location which is remote from the first terminal unit and the second terminal unit (fig. 1, fig. 15, 0251-0253, and 0240).

Schneck fails to explicitly disclose wherein the content determining means includes a feature extracting means for extracting a feature pattern from the file and compare the feature

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pattern with a plurality of stored feature patterns to determine the content of the file, as amended and argued remark page 11 par. 4. However, Moskowitz discloses a method of copyrights and/or content protection in using digital watermarking (see abstract and par. 0004 lines 17-25). The method comprising compressing (par. 0033 lines 7-8) song content (par. 0026), extracting a block/segment, performing Fast Fourier transform (FFT) on the extracted segment to perform frequency domain (see par. 0033 lines 7-20, par. 0037 lines 8-12) and compare the generated result and/or hash with stored to determine the message/content of the file/song (see par. 0033, 0037, and claim 1).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Moskowitz within the system of Schneck because they are analogous in content protection. One would have been motivated to do so because it would protect content owners rights in using FFT to enhance security.

As per claim 2, Schneck further discloses the copyright licensing process promoting apparatus, further comprising:

searching means for searching for a location on a predetermined list, referenced via the communication network, at which the file of the literary work data is stored (fig. 13),

wherein said detecting means detects the file being transmitted, the file to be stored at the location searched by said searching means (0251-0254, and 0230-0248).

As per claim 4, Schneck further discloses the copyright licensing process promoting apparatus, further comprising:

literary work data determining means for determining whether the content of the file to be transmitted is literary work data (0089, and 0011); and

copyright licensing process, determining means for determining whether a copyright licensing process has been performed for the literary work data (abstract),

wherein said content determining means determines that the content of the file is valid corresponding to a result of said literary work data determining means and result of said copyright licensing process determining means, and said literary work data determining means represents that the content of the file is literary work data and said copyright licensing process determining means represents that the copyright licensing process has not been performed for the file (0097-0099).

As per claim 7, Schneck further teaches the copyright licensing process promoting apparatus, further comprising:

informing means for informing the first user of the terminal unit that the content of the file is not valid when a result of said content determining means represents that the content of the file is not valid (fig. 11 element S1126, and 0169),

wherein said file processing means performs the predetermined process when the first terminal unit tries to transmit the file although said informing means has informed the first user that the content of the file is not valid (fig. 11 element S1126, 0251-0254, and 0169).

Regarding claims 15, 17, 19, and 21, Schneck discloses the copyright licensing process prompting apparatus wherein the predetermined process for the file is a destruction of the file

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(claims 56, 43, par. 0139, 0184, 0133, 0055; *destroying/deleting data when illegal access and/or illegal transmission of content to second person is detected*).

5. Claims 16, 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneck et al. (herein after Schneck) US PG PUBS 2001/0021926 A1 and Moskowitz Pub. No. 2001/0010078 A1 and further in view of Kobata et al. USPG PUBs 2002/0077985 A1.

Regarding claims 16, 18, 20, and 22, Schneck and Moskowitz discloses the copyright licensing process promoting apparatus further comprising means for transmitting a warning message to the second terminal unit when a result of said content determining means represents that the content of the file is not valid (Schneck 0253; if transmission request is not valid transmitting and displaying random data/number or encrypted content that is a warning for not allowed content and the user must contact with the distributor for permission rights).

The combination discloses authenticating transmission access and if not valid denying access to first and second user and transmitting random number/data or encrypted data to the second user (Schneck 0253). The combination do not explicitly disclose warning the authorized user. However Kobata et al. discloses remote authenticator authenticating usage access request and if not valid transmitting a denying message to the user (0135). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Kobata et al. within the combination system because they are analogous in digital data access rights authentication. One would have been motivated to incorporate the teachings of warning the users when access is not authorized is because to

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clearly notify the result of the authenticating to users and users based on the warning message could perform actions like upgrading license, buying new license and etc.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni A. Shiferaw whose telephone number is 571-272-3867. The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser R. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.




August 23, 2007

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8,29,07